

HOUSE BILL No. 1325

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-25.5.

Synopsis: Homeowners associations. Applies the following to a homeowners association (association) established after June 30, 2007: (1) Requires an association to maintain a current roster of all members of the association (members). (2) Requires an association to prepare an annual budget. (3) Requires the board of directors of an association (board) to address an item of business if more than 50% of the members petition the board to address the item. (4) Prohibits a board from entering into certain contracts. (5) Provides that the governing documents of an association must include grievance resolution procedures that provide for the final and binding arbitration of disputes. (6) Provides that the governing documents of an association must allow the termination of the association if at least 70% of the members agree to the termination. (7) Specifies that a penalty imposed by an association against a member is not enforceable as a lien against any real property owned by the member. (8) Prohibits an association from suspending the voting rights of a member for nonpayment of annual assessments unless the assessments are delinquent for more than two years. (9) Provides certain defenses to a member if the association brings a civil action against the member involving an act in furtherance of the member's right of petition or free speech. Allows an association established before July 1, 2007, to elect to be governed by this statute.

Effective: July 1, 2007.

Grubb, Hinkle, Moses

January 16, 2007, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1325

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-25.5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2007]:

4 ARTICLE 25.5. HOMEOWNERS ASSOCIATIONS

5 Chapter 1. Applicability

6 Sec. 1. This article applies to the following:

7 (1) A homeowners association established after June 30, 2007.

8 (2) A homeowners association established before July 1, 2007,
9 if the association elects to be governed by this article.

10 Chapter 2. Definitions

11 Sec. 1. The definitions in this chapter apply throughout this
12 article.

13 Sec. 2. "Act in furtherance of a person's right of petition or free
14 speech under the Constitution of the United States or the
15 Constitution of the State of Indiana in connection with a public
16 issue" has the meaning set forth in IC 34-7-7-2.

17 Sec. 3. "Board" refers to the board of directors of a

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homeowners association.

Sec. 4. "Governing documents" includes the articles of incorporation and bylaws of a homeowners association and all adopted amendments to the articles of incorporation and bylaws.

Sec. 5. "Homeowners association" means a corporation or another entity that:

- (1) is organized and operated exclusively for the benefit of two
- (2) or more persons who each own a dwelling in fee simple;
- (2) acts, in accordance with the articles, bylaws, and other documents governing the corporation or entity, to:
 - (A) acquire, transfer, manage, repair, maintain, or engage in construction on or in the land and improvements on the land related to the use of the dwellings owned by the members of the corporation or entity;
 - (B) purchase insurance to cover a casualty or an activity on or in the land and improvements on the land;
 - (C) engage in an activity incidental to an activity described in clause (A) or (B); or
 - (D) engage in more than one (1) of the activities described in clauses (A) through (C); and
- (3) is governed by a board that serves the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of the homeowners association.

Chapter 3. Homeowners Associations

Sec. 1. (a) A homeowners association shall maintain a current roster of all members of the association and their mailing addresses and parcel identifications.

(b) The homeowners association shall also maintain any electronic mail addresses or facsimile (fax) numbers of those members who have consented to receive notice by electronic mail or facsimile (fax). Electronic mail addresses and facsimile (fax) numbers provided by a member to receive notice by electronic mail or facsimile (fax) shall be removed from the association's records when the member revokes consent to receive notice by electronic mail or facsimile (fax). However, the association is not liable for an erroneous disclosure of an electronic mail address or a facsimile (fax) number for receiving notices.

(c) The information maintained by a homeowners association under this section shall be made available to a member of the association upon request.

Sec. 2. If more than fifty percent (50%) of the members of a homeowners association petition the board to address an item of

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business, including the amendment of any governing documents, the board shall address the petitioned item on an agenda:

- (1) at its next regular board meeting or at a special meeting of the board; and
- (2) not later than sixty (60) days after the receipt of the petition.

Sec. 3. (a) A homeowners association shall prepare an annual budget.

(b) The annual budget must reflect:

- (1) the estimated revenues and expenses for the budget year; and
- (2) the estimated surplus or deficit as of the end of the current year.

(c) The homeowners association shall provide each member with:

- (1) a copy of the annual budget; or
- (2) a written notice that a copy of the annual budget is available upon request at no charge to the member.

Sec. 4. (a) A board may not enter into any contract that would result in:

- (1) a new assessment; or
- (2) the increase in an existing assessment;

payable by the members of the homeowners association in the amount of more than one thousand dollars (\$1,000) per year for each member of the homeowners association unless more than fifty percent (50%) of the members approve the contract.

(b) The approval of a contract under subsection (a) must be evidenced by an agreement signed by more than fifty percent (50%) of the members of a homeowners association.

Sec. 5. (a) The governing documents must include grievance resolution procedures that apply to all members of the homeowners association and the board.

(b) The procedures described in subsection (a) must provide for the final and binding arbitration of disputes concerning the administration of the homeowners association and interpretation of the governing documents.

Sec. 6. (a) The governing documents must include provisions that allow the termination of the homeowners association if at least seventy percent (70%) of the members of the homeowners association agree to the termination.

(b) The approval of a termination under subsection (a) must be evidenced by an agreement:

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(1) signed by at least seventy percent (70%) of the members of a homeowners association; and

(2) filed with the clerk of the circuit court that has jurisdiction in the county in which the real property governed by the homeowners association is located.

(c) The provisions described in subsection (a) must provide that, after an agreement is filed with the clerk of the circuit court under subsection (b), the homeowners association remains in existence only:

(1) to wind up the association's affairs; and

(2) until all the liabilities and obligations of the association have been discharged.

Sec. 7. A penalty imposed by a homeowners association against a member of the homeowners association is not enforceable as a lien against any real property owned by the member.

Sec. 8. A homeowners association may not suspend the voting rights of a member for nonpayment of regular annual assessments unless:

(1) the governing documents provide for suspension; and

(2) the assessments are delinquent for more than two (2) years.

Sec. 9. (a) If a homeowners association brings a civil action against a member of the association involving an act in furtherance of the member's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue, the defense established by IC 34-7-7 is available to the member in the action.

(b) A homeowners association may not expend association money prosecuting a civil action described in subsection (a) against a member.

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